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**Board of Supervisors**

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**Brad Wagenknecht**  
Chair

October 14, 2008

Mike Napolitano, Environmental Scientist  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

*[Transmitted via email: [mnapolitano@waterboards.ca.gov](mailto:mnapolitano@waterboards.ca.gov) and Fax: (510) 622-2459]*

**RE: Comments on September 5, 2008 revisions to the proposed San Francisco Bay Water Quality Control Plan (Basin Plan) amendment, Napa River Sediment Total Maximum Daily Load (TMDL) Required Implementation Measures and Recommended Habitat Enhancement Plan**

Dear Mr. Napolitano:

Thank you for presenting the Regional Water Quality Control Board's (RWQCB) proposed revisions to the TMDL, and planned amendments to the Basin Plan, which includes changes to the Required Implementation Measures and Recommended Habitat Enhancement Plan, to the Watershed Information Center and Conservancy (WICC) Board on September 25, 2008.

It is our understanding that RWQCB staff has been reaching out to a number of watershed stakeholders during the month of September to explain the extent and purpose of the recently proposed revisions. The timely outreach and presentations by RWQCB staff are very instructive and we appreciate their efforts and willingness to discuss the recently proposed changes with our community. We look forward to working with RWQCB staff throughout the remaining TMDL and Basin Plan amendment process.

The County is aware that the RWQCB staff is proposing these revisions based upon public comment received by the State Water Resources Control Board (State Board) questioning the adequacy of the TMDL's compliance with the State Board's certified regulatory program requirements as they relate to the California Environmental Quality Act (CEQA). Although the proposed changes are to address CEQA deficiencies and were reported to be minor in scope, the County believes they require further explanation or modification to alleviate concerns regarding additional performance standards and required implementation actions/schedules.

As noted in our previous comments, the County supports the RWQCB's overall TMDL goals, "to conserve the steelhead population, establish a self-sustaining Chinook salmon population, enhance the health of the native fish community and enhance the aesthetic and recreational values of the Napa River and its tributaries." The County, alongside many watershed organizations, stakeholders and

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## Comments on revised Sediment TMDL and Basin Plan Amendment

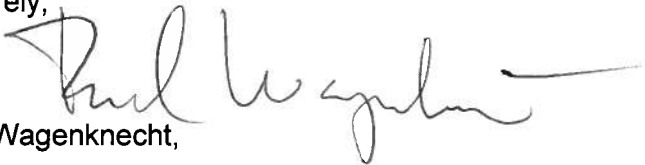
landowners, is actively taking steps to better understand and conserve our watershed resources. We appreciate the RWQCB's support and assistance in these very important endeavors.

Although well intentioned, the newly proposed revisions to the Napa River Sediment TMDL are again cause for concern due to additional uncertainties, while not having fully addressed the County's earlier comments (see letter dated August 15, 2006). The proposed Basin Plan amendment remains vague, references future development of unidentified requirements, implicitly asserts responsibilities, and neglects to account for public and private costs associated with the proposed Implementation Measures (regulatory tools/actions). The County remains concerned that the proposed Basin Plan is ambiguous and will be subject to future interpretation - possibly holding responsible parties (public and private) to unattainable and infeasible compliance requirements and timeframes.

On behalf of Napa County, I would like to thank you for the opportunity to provide comments on the proposed revisions to the Basin Plan amendment that will implement the sediment TMDL for the Napa River watershed. More specific comments are provided in the attachment to this letter. We hope that RWQCB and staff find our comments both informative and constructive in your effort to develop a water quality policy that reflects the varied needs and values of Napa County.

We look forward to the opportunity to discuss our comments in more detail with you or your staff. Please do not hesitate to contact Patrick Lowe, Deputy Planning Director at (707) 259-5937 or Jeff Sharp, Principal Planner, at (707) 259-5936 on our staff, should you have any questions or need additional information regarding our comments.

Sincerely,



Brad Wagenknecht,  
Chair

cc:

Hillary Gitelman, Conservation, Development and Planning Director  
Robert Peterson, Director, and Donald Ridenhour, Assistant Director Public Works  
Rick Thomasser, Flood and Water Control District Engineer  
Patrick Lowe and Jeff Sharp, Conservation, Development and Planning  
Steven Lederer, Environmental Management Director  
Watershed Information Center and Conservancy Board of Napa County  
Thomas Mumley and James Ponton, San Francisco Bay RWQCB, TMDL Division

## **Attachment: Napa County Comments**

### *September 5, 2008 Revised Basin Plan amendments, incorporating a sediment TMDL, implementation plan, and Habitat Enhancement Plan for the Napa River watershed*

1. The geographic scope of the TMDL remains vague and it is unclear as to where the proposed performance standards and regulatory actions apply. Greater clarification and justification on the geographic applicability of the proposed Basin Plan amendment is warranted, particularly as it relates to the Plan's required implementation actions.
2. The Basin Plan references the submittal of a Report of Waste Discharge (RoWD) as a means of documenting actions towards compliance and generally outlines the nature of the report's required contents. Until a comprehensive program of waivers for Waste Discharge Requirements (WDRs) is approved and implemented, please explain how the RWQCB will improve its capacity to effectively receive, review and approve the large volume of RoWDs that will be required for vineyard development as a result of the proposed Basin Plan amendment.
3. The Plan mentions the RWQCB's future intent to adopt a Waste Discharge Requirement (WDR) waiver policy for nonpoint source categories that "balance agricultural, environmental, recreational and residential needs of the watershed." However, the proposed Basin Plan amendment lacks any detail describing what those waiver conditions may entail or how and when they will be approved. It will likely take a great deal of time on the part of RWQCB staff to develop conditional waiver program requirements. We request that the RWQCB work towards developing a unified WDR waiver program that addresses multiple land use categories.
4. The compliance deadlines presented in the implementation tables are not sufficient to successfully develop an effective yet flexible WDR waiver program that addresses the varied needs of watershed. Please explain how the RWQCB envisions the waiver development process and detail what the waiver requirements will be.
5. The development of this TMDL has been an unusually long process burdened with data and legal challenges. Please consider extending the completion dates in tables 4.1 – 4.4 by two or more years, allowing ample time for developing and complying with applicable WDR waiver requirements.
6. Table 4.1 (Vineyards) of the Plan mentions third party "certification programs" as a means of developing "farm plans" to meet future conditions associated with a WDR waiver. The County is concerned that there is not sufficient local and regional "third party" capacity to meet the vineyard owner/operator demand by the proposed completion date. As mentioned above, please consider extending the completion dates in the implementation tables by two or more years, allowing ample time to fully develop needed capacity of third party certification programs to meet the projected demand.
7. The suggested action items in Tables 5.1 – 5.4 are presumably part of the RWQCB's recommended Habitat Enhancement Plan. Although the action items in the tables appear to be voluntary (i.e., recommended), they have very specific completion dates associated with them. Please confirm that the listed actions are recommendations and not binding upon the implementing parties. We believe most of the completion dates listed cannot be met and should be eliminated or qualified based upon funding availability, staffing resources and stakeholder derived priorities for the watershed. Furthermore, please explain how the RWQCB intends to require the suggested deadlines be met.

## **Comments on revised Sediment TMDL and Basin Plan Amendment**

8. The County, along with many stakeholders in the watershed, recognizes the value of the management objectives listed in Tables 5.1 – 5.4 and appreciates the RWQCB's efforts in identifying possible actions to obtain them. The County and others are presently working towards completing many of the recommended action items, including stream restoration, fisheries monitoring and watershed planning. One of "the highest priorities" noted in the TMDL Staff Report is monitoring the relative fitness of the juvenile steelhead population and timing of their outmigration (pg. 89). The Napa County Wildlife Conservation Commission and the Napa County Resource Conservation District recently allocated funding towards the purchase of a rotary screw trap to meet this identified need. The County would appreciate any assistance the RWQCB could provide in helping to fund and maintain the trap's operation as a key component in developing an informative long-term fisheries monitoring program for the watershed.

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